IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SECOND DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 20061 of 2004

Between:

M/s. Rajam Aluminum Metal Products Private Limited.,

Rajam, Srikakulam District, rep by Managing Director

Mr. Amalendusen

..... PETITIONER

AND

1 Additional Commissioner (CT) Legal (FAC) Andhra Pradesh,

O/o Commissioner of Commercial Taxes,
M.J. Road, Hyderabad
2 Commercial tax Officer, Rajam Circle, Rajam,

Srikakulam District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ of Certiorari or any other appropriate Writ or order or Direction calling for the records of the 1st Respondent dt 15-10-2004 in commissioner of Commercial Taxes Ref. No. LV(3)/2918/2001 and 2919/2001 (not 2919/2004) and quash the same as arbitrary and contrary to law and against the weight of evidence and

probabilities of the petitioner's case and also declare the action of the 2nd Respondent in threatening to take coercive steps for recovery of the balance disputed demands of about 37 % when the petitioner having already paid the total tax amount about63% out of the total disputed demands pending disposal of appeal before the Sales Tax Appellate Tribunal and also not issuing the way bills to the petitioner is contrary to law and against the provisions of the Andhra Pradesh General Sales Tax act as well as the decision of this Hon'ble Court reported in 23 APSTJ page 141 and consequently grant stay of collection of balance disputed demands of Rs. 2,80,560/- and Rs. 9,384/- for the assessment year 1991-92 both under APGST and CST Acts and Rs. 3,12,093/- for the assessment year 1992-93 under Andhra Pradesh General Sales Tax Act out of the total disputed demand of Rs. 7,38,265/- Rs. 24,694/- and Rs. 8,41,328/- respectively pending disposla of the appeals in TA Nos. 1284, 1285 and 1286/2001 before the sales Tax Appellate Tribunal.

Counsel for the Petitioner:MR.SHAIK JEELANI BASHA

Counsel for the Respondents 1 and 2: GP FOR COMMERCIAL TAX

The Court at the stage of admission made the following :

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ORDER: (Per Hon'ble Sri Justice Bilal Nazki)

Heard the learned counsel for the parties. With their consent, the writ petition is disposed of at this stage.

Petitioner's case is that he had already paid 50% of the disputed tax liability. Therefore, pending appeal, stay be granted in his favour. This application has been dismissed by the Additional Commissioner. We are of the view that since the petitioner had already paid 50% of the disputed tax and also additionally 12.5%, while filing the Second Appeal, the stay should have been granted.

In these circumstances, we set aside the order of the Commissioner and grant stay of further recovery till disposal of the appeal.

The writ petition is accordingly allowed. No order as to costs.

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(BILAL NAZKI,J)

Dated:02.11.2004

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(S.ANANDA REDDY,J)

ts

Note:Opeative portion by wire

at party’s cost.

(B/o.)

ts

To

1 The Additional Commissioner (CT) Legal (FAC) Andhra

Pradesh, O/o Commissioner of Commercial Taxes,
M.J. Road, Hyderabad

2 The Commercial tax Officer, Rajam Circle, Rajam,

Srikakulam District

3 2 CCs to the G.P. for Commercial Taxes, High Court Buildings,

High Court of A.P. Hyderabad (OUT)

4 2 CD copies.